

DECISION #08-06

DECISION ON THE PETITION OF RICHARD PRESTI

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, October 27, 2008, on the Petition of Richard Presti of Domus, LLC, for a **SPECIAL PERMIT** under Section 8.3.4 of the Zoning Bylaws to allow the rebuilding of a non-conforming structure with a setback of 21.1 feet where 50 feet is required. Located at 54 Knox Trail, Map I4/Parcel 9.

Present at the hearing were Cara Voutselas, Chairperson; Kenneth F. Kozik, Member; and Marilyn Peterson, Member. Also present were Roland Bartl, Town Planner and Acting Zoning Enforcement Officer; Scott Mutch, Assistant Town Planner; Cheryl Frazier, Board of Appeals Secretary; and the Petitioner, Richard Presti.

Ms. Voutselas opened the hearing and read the contents of the file. The file contained a staff memo from Assistant Town Planner, expressing no objection to the special permit but requesting that appropriate landscaping be added to the site since it is the entrance to sites of many other buildings.

Ms. Voutselas asked the Petitioner to begin. Mr. Presti explained that the weight of snow from a storm on December 21, 2007, collapsed the building and rendered it unsafe. A demolition permit was obtained from the Town of Acton. After demolition the remaining concrete pad was found to be cracked. The concrete pad was removed and a new pad was laid down in conformance with code. The new pad was installed in the exact same footprint as the old defective concrete pad. Mr. Presti wishes to erect a new steel building on the exact same footprint of the original building and foundation.

Scott Mutch reaffirmed his opinion that his department had no objection to the building or the granting of the special permit as long as appropriate landscaping is installed. With the onset of colder weather, Mr. Mutch suggested that the petitioner be required to post a bond to cover the agreed upon landscaping in the Spring when the ground thaws. Mr. Presti agreed to such a bond.

The Board of Appeals, after considering the materials submitted with the Petition, together with the information developed at the hearing, finds that:

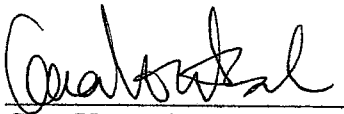
1. The Petitioner seeks a **SPECIAL PERMIT** under Section 8.3.4 of the Zoning Bylaws to allow the rebuilding of a non-conforming structure with a setback of 21.1 feet where 50 feet is required. Located at 54 Knox Trail, Map I4/Parcel 9.

2. The proposed structure is sited in exactly the same location as the previous structure. The size of the proposed structure is slightly smaller than the previous structure.
3. The proposed structure otherwise complies with the applicable requirements of the Zoning Bylaws.
4. The proposed structure is appropriate for the site and will not be more detrimental or injurious to the neighborhood than the existing conditions.

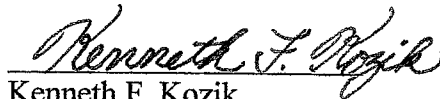
Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT the SPECIAL PERMIT** subject, however, to the following conditions:

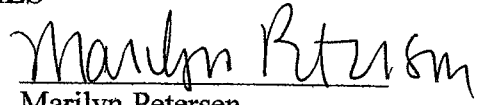
1. Petitioner shall erect a building substantially in accordance with plans submitted at the hearing.
2. Petitioner shall post a bond to cover landscaping to be installed before the new structure is erected. The amount of the bond and degree of landscaping shall be negotiated between the petitioner and the Acton Planning Department.

Any person aggrieved by the decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within twenty (20) days after this decision is filed with the Acton Town Clerk.

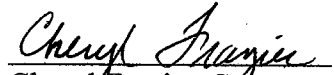

Cara Voutselas,
Chairperson

TOWN OF ACTON BOARD OF APPEALS


Kenneth F. Kozik,
Member


Marilyn Petersen,
Member

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on November 12, 2008.


Cheryl Frazier, Secretary
Board of Appeals

EFFECTIVE DATE OF SPECIAL PERMIT: No Special Permit, or modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in Middlesex County South District Registry of Deeds. Such decision shall bear the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such appeal has been filed, it has been dismissed or denied.

EXPIRATION DATE OF SPECIAL PERMIT: This Special Permit must be exercised within two (2) years of its effective date.